



S/N 09/787,377

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Marco Johannes Christina      Examiner: JOHNSON, BLAIR M.  
VAN AMELSVOORT  
Serial No.: 09/787,377      Group Art Unit: 3634  
Filed: AUGUST 31, 2001      Docket No.: 9424.147USWO  
Title: WINDOW BLIND FOR DECORATION AND SUN PROTECTION

CERTIFICATE UNDER 37 CFR 1.8:

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By: *Denise Chamberlin*

Name: Denise Chamberlin

APPEAL BRIEF

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**23552**

PATENT TRADEMARK OFFICE

Dear Sir:

This Brief is presented in support of the Appeal filed July 30, 2007, from the final rejection of Claims 20-27 and 29-50 of the above-identified application, as set forth in the Office Action mailed February 5, 2007.

Please charge any additional fees or credit overpayment to Merchant & Gould Deposit Account No. 13-2725.

An oral hearing is requested. A separate request for oral hearing with the appropriate fee will be filed within two months of the Examiner's Answer.

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**I. REAL PARTY IN INTEREST**

The real party in interest is Marco Johannes Christina Van Amelsvoort, located in 's-Hertogenbosch, Netherlands, the sole inventor of record.

Serial No. 09/787,377  
Group Art Unit: 3634

**II. RELATED APPEALS AND INTERFERENCES**

None.

### **III. STATUS OF CLAIMS**

Claims 1-19 and 28 have been cancelled.

Claims 20-27 and 29-50 are currently rejected.

The rejection of each of claims 20-27 and 29-50 is being appealed.

#### **IV. STATUS OF AMENDMENTS**

No amendments subsequent to the Final Office Action of February 5, 2007 have been filed.

## **V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

Independent Claim 20 concerns a vertical slatted blind comprising vertical slats (30), wherein the blind, when brought into a condition ready for use, comprises first and second faces (B, I) and (B, II) defined by the vertical slats (30) and extending in a horizontal direction over a portion of a width (B) of the blind (spec., page 7, lines 2-36 and page 8, lines 1-13, and FIGS. 4 and 5). The second face (B, II) is oriented vertically below the first face (B, I) and each of the slats (30) transmits substantially no light for a first portion (32) of each slat (30) corresponding with the first face (B, I) and partially transmits light for a second portion (34) of each slat (30) corresponding with the second face (B, II) (spec., page 7, lines 6-28 and lines 31-36 and page 8, lines 1-3, and FIGS. 4 and 5). The first face (B, I) transmits substantially no light and the second face (B, II) subdues incident light in such a manner that a person present at his workplace (6) in an inner space provided with the blind can still look outside through the second face (B, II) (spec., page 7, lines 19-28 and page 8, lines 8-13, and FIGS. 4 and 5).

Independent Claim 29 concerns a window blind comprising a plurality of vertically oriented slats (30) each being movable between an open position and a closed position. When the slats (30) are in the closed position, the slats (30) define a first face (B, I) extending across a width (B) of the blind and a second face (B, II) extending across the width (B) of the blind at a position vertically below the first face (B, I) (spec., page 7, lines 2-36 and page 8, lines 1-13, and FIGS. 4 and 5). Each slat (30) includes a first portion (32) aligned with the first face (B, I) and configured to transmit substantially no light through the blind while providing substantially no visibility through the blind, and a second portion (34) aligned with the second face (B, II) and configured to partially transmit light through the blind while providing visibility through the blind (spec., page 7, lines 6-28 and lines 31-36 and page 8, lines 1-3, and FIGS. 4 and 5).

Independent Claim 38 concerns a window blind comprising a plurality of rotatable, vertically oriented slats (30). Each slat (30) includes a continuous piece of at least partially transparent material (22/24) and including first and second portions (32) and (34) positioned along a length (I) of the slat (30). The first portion (32) is oriented

vertically higher than the second portion (34) and includes a layer configured to inhibit substantially all viewing and light transmission through the slat (30). The second portion (34) provides viewing through the slat (30). When the plurality of slats (30) are rotated into a closed position, the blind provides substantially no viewing and no light transmission through an upper face (B, I) of the window blind defined by the first portion (32) of the slats (30) and provides viewing through a lower face (B, II) of the window blind defined by the second portion (34) of the slats (30) (spec., page 7, lines 2-36 and page 8, lines 1-13, and FIGS. 4 and 5).

Independent Claim 43 concerns a window decoration comprising a vertical slatted blind, wherein the vertical slatted blind, when brought into a condition ready for use, comprises a first face (B, I) extending in a horizontal direction over at least substantially the full width (B) of the window decoration and a second face (B, II) extending in a horizontal direction of the window decoration, wherein the first and the second faces (B, I) and (B, II) are formed by vertical slats (30). The first face (B, I) comprises a first portion (32), the first portion (32) transmitting substantially no light. The second face (B, II) comprises a second portion (34), the second portion (34) partially transmitting light, wherein the second face (B, II) subdues incident light such that a person present at his workplace (6) in an inner space provided with the window decoration can look outside through the second face (B, II). The first face (B, I) is located above the second face (B, II) (spec., page 7, lines 2-36 and page 8, lines 1-13, and FIGS. 4 and 5).



**VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Whether claims 20, 21, 23-27, 29-31, 33-38, and 43-50 are unpatentable under 35 U.S.C.103(a) over German 19537190.
2. Whether claim 22 is unpatentable under 35 U.S.C.103(a) over German 19537190 in view of Levert (U.S. Patent 6,123,137).
3. Whether claims 32 and 39-42 are unpatentable under 35 U.S.C.103(a) over German 19537190 in view of Johnston et al. (U.S. Patent 4,813,198).
4. Whether claims 20, 21, 23-27, 29-31, 33-38, and 43-50 are unpatentable under 35 U.S.C.103(a) over German 19537190 in view of Kearny (U.S. Patent 2,646,114).
5. Whether claim 22 is unpatentable under 35 U.S.C.103(a) over German 19537190 in view of Kearny (U.S. Patent 2,646,114), further in view of Levert (U.S. Patent No. 6,123,137).
6. Whether claims 32 and 39-42 are unpatentable under 35 U.S.C.103(a) over German 19537190 in view of Kearny (U.S. Patent 2,646,114), further in view of Johnston et al. (U.S. Patent No. 4,813,198).

## **VII. ARGUMENT**

Claims 20-27 and 29-50 stand rejected. Specifically, claims 20-27 and 29-50 stand rejected as follows:

1) Claims 20,21,23-27, 29-31, 33-38, and 43-50 stand rejected under 35 U.S.C. 103(a) as being unpatentable over German 19537190 (hereinafter "German" or "German '190").

2) Claim 22 stands rejected under 35 U.S.C. 103(a) as being unpatentable over German '190 as applied above, and further in view of Levert (U.S. Patent 6,123,137).

3) Claims 32 and 39-42 stand rejected under 35 U.S.C.103(a) as being unpatentable over German '190 as applied above, and further in view of Johnston et al. (U.S. Patent 4,813,198).

4) Claims 20, 21, 23-27, 29-31, 33-38, and 43-50 stand rejected under 35 U.S.C.103(a) as being unpatentable over German '190 as applied above, and further in view of Kearny (U.S. Patent 2,646,114).

5) Claim 22 stands rejected under 35 U.S.C. 103(a) as being unpatentable over German patent '190 in view of Kearny as applied above, and further in view of Levert.

6) Claims 32 and 39-42 stand rejected under 35 U.S.C. 103(a) as being unpatentable over German '190 in view of Kearny as applied above, and further in view of Johnston et al.

Each of the above obviousness rejections is respectfully traversed, and reconsideration is requested for at least the following reasons.

To establish a prima facie case of obviousness, three basic criteria must be met: 1) suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine teachings; 2) a reasonable expectation of success; and 3) the references, when combined, must teach or suggest all the claim limitations. See In re Vaeck, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP 2143 et seq. The possible sources for motivation to combine references are: (a) the nature of problem being solved; (b) the teaching of the prior art; and (c) the knowledge of one skilled in the art. MPEP § 2143.01. A determination of obviousness cannot be based on impermissible hindsight. MPEP 2145(X)(A).

For the following reasons, each of the above rejections fails to state a prima facie case of obviousness.

A. There is no motivation to modify the cited references or to combine teachings.

In order to establish a prima facie case of obviousness, there must be some motivation to modify a reference or to combine teachings, either from the nature of problem being solved, the teaching of the prior art, or the knowledge of one skilled in the art. MPEP § 2143.01. In the present case, there is no motivation to modify German '190 or combine it with the other cited references to arrive at the inventions claimed by the Applicant.

Regarding the first rejection, claims 20,21,23-27, 29-31, 33-38, and 43-50 have been rejected under 35 U.S.C. 103(a) as being unpatentable over German '190.

Independent claims 20, 29, 38, and 43 all recite, among other features, a blind having vertical slats that define first and second faces, wherein the first face is configured to transmit substantially no light while providing substantially no visibility and the second face is configured to at least partially transmit light while providing visibility, wherein the second face is positioned vertically below the first face.

The recited structure of the vertical slatted blind makes it possible to reduce the amount of light coming into a room by blocking light through the first, upper oriented face while still providing visibility through the second, lower oriented face.

The blind structure recited in the claims addresses the problem of high incident light in a workspace that typically affects, for example, a person's ability to view a computer screen (see page 1, paragraph 4 of the present application). As the sun is generally positioned relatively high in relation to a window, having a blind design wherein the upper face of the vertical blinds substantially blocks the light prevents direct, strong exposure to the sun by a person. This allows for a generally darker workspace, allowing for easier viewing of, for example, computer screens. In addition to addressing the above problem, the blind structure of the present application also provides some visibility to outside for workers in the workspace through a lower portion of the window to prevent physical and mental strains of being alienated from the outside world for an extended period of time (please see page 1, paragraph 4 and page 2, paragraph 2 of the present application).

In sharp contrast, German '190 discloses in Figures 1 and 2 a slat 10 that has an upper part 12 and a lower part 14, wherein the upper part 12 of the slats 10 consists of a material strip 20 provided with a multiplicity of perforations 18 and the lower part 14 includes a material without holes. See page 4, lines 13-20. When in a closed position, the lower part of the slats 10 entirely reflects the sunlight incident from the outside (see Figure 2), while the upper part 12 of the slats 10, as indicated as 30, allows a part of the sun rays 28 to pass into the interior space. It is stated in German that the penetrating rays 30 are above the head level (and the level of a screen 32), and hence do not entail any disturbance of the workplace, while affording a natural lighting of the room as a whole. See page 5, lines 15-22. Thus, in sharp contrast, the German design places the entering rays to a level above the head level to prevent direct exposure to sun rather than darkening the room as a whole and lights up the entire room as a whole with high incoming rays.

German '190 fails to disclose or suggest a blind having a first face that is configured to transmit substantially no light while providing substantially no visibility and a second face that is configured to at least partially transmit light while providing visibility, wherein the second face is oriented vertically below the first face, as required by claims 20, 29, 38, and 43.

As mentioned above, the stated purpose and object of German '190 is to provide a blind made up of a plurality of vertical slats that are "light transmissive to a greater extent in the upper region than in the lower region." See page 2, lines 10-11. German '190 also recites at page 2 beginning at line 15 that, "in the lower region extending preferably approximately as far as the head of the person using the room, a fully or partly closed slat arrangement can be chosen, thereby avoiding the direct solar radiation resulting in contrast light and blinding, unwanted in particular in screen-workplaces. At the same time, however, in the upper region of the blind, daylight can penetrate into the room, and the depth of the room can be illuminated by natural light."

German '190 discloses several configurations for providing the desired light transmission in the upper region of the blind to get light into the entire room. For example, "in the upper region thereof, is perforated, i.e., is provided with a large hole or multiplicity of smaller holes or slits, through which the daylight can penetrate into the room also when the slat arrangement is closed. In another practical embodiment, the vertical blind consists, in the upper region thereof, of a different, or differently treated, material strip than in the lower region..." See page 3, lines 15-18. Still further, "the different light transmissivity in the upper and lower region is achieved through stronger reflection in the part of lesser transmissivity, and embodiments in which the part of lesser light transmissivity absorbs the incident light more strongly." See page 3, lines 19-22. In a yet further configuration, "the action aimed for according to the invention can also be accomplished in that the upper part of the vertical blind slats can assume a different closure-position than the lower part." See page 3, lines 23-25.

Each of these above examples in German is directed to providing more light transmissivity in the upper region than in the lower region of the vertical slats. German

fails to disclose or suggest in any way reversal of the light transmissivity properties of the upper and lower regions of the blind slats disclosed therein.

The last Office Action states that while the upper portion in German '190 is the light transmitting portion and the lower portion is the light blocking portion, which is completely reversed from the presently claimed invention, one of ordinary skill in the art faced with the Applicant's stated problem of blocking light at the top of the blind and permitting some light through the bottom of the blind would have simply reversed the arrangement of these two portions in German '190 to come up with the Applicant's invention of claims 20, 29, 38, and 43. The Applicant respectfully disagrees with this position taken in the last Office Action and in the previous Office Actions.

There is absolutely no motivation or suggestion to reverse the blind configuration disclosed in German '190 to come up with the Applicant's configuration. German '190 fails to suggest that its objective could be achieved or even be possible by switching the slat properties to provide for light transmissivity or visibility at the bottom portion of the blind and allow low light transmissivity and low visibility at the top portion of the blind. German also fails to disclose or suggest that the blind configuration disclosed therein could be used to address any other problem or satisfy any other need besides low light transmissivity at the bottom portion of the blind and high light transmissivity at the top portion of the blind. Moreover, as will be described in further detail below, German '190 clearly teaches away from the Applicant's configuration.

Regarding the needed motivation, first of all, the Applicant's invention of claims 20, 29, 38, and 43 and the design of German '190 address different problems to be solved and in different ways. As noted above, the configuration in German '190 is directed to shield workplaces that are in the vicinity of a window against the blinding effect of direct solar radiation, while still yielding a natural illumination of the rest (rear part) of the room. Please see page 1, lines 21-24 of German '190 translation. In German '190, it is discussed that the fact that daylight can penetrate into the room and the depth of the room can be illuminated by natural light leads to energy savings by rendering any additional electrical illumination dispensable to a large extent. Please see page 2, lines 19-24 of

German '190. Thus, German favors enlightening the entire room rather than darkening the overall room.

Applicant's invention is directed to solving a different problem and differently than that of German '190. Applicant's invention is directed to subduing the total light transmitted through a window to a sufficiently low enough level to enable reading of screens in a workplace while still providing some outside visibility for workers in the workspace to prevent physical and mental strains of being alienated from the outside world for an extended period of time. Please see page 2, lines 7-20 of the Applicant's specification. It is discussed in the Applicant's specification that tests have shown that when a person stays for a long period in a space provided with a window decoration that is designed to subdue incident light from the outside, that person starts to feel unwell, leading to mental and physical strains. Please see page 1, lines 19-25 of the Applicant's specification.

Thus, as stated previously, since the problems to be solved by the Applicant's invention and German '190 are different, the structures provided by the Applicant's invention and by German '190 are substantially different from each other and perform in a substantially different manner to reflect this difference and there is no suggestion in German to modify its structure. In each of the embodiments disclosed in German, the upper portion of the blind is the light-transmitting portion and is so for a reason. It is clearly shown in German '190 that the window configuration is designed to block rays that are lower, in the vicinity of a computer screen, while allowing upper rays to travel to the rest of the room to lighten up the rear part of the room. As stated, on page 5, lines 15-22 of the English translation of German '190, "In the schematic presentation in Fig. 2, the assumption was that the lower part 14 of the slats 10, in closed position, to a large extent reflects the sunlight 28 incident from the outside, whilst the upper part 12 of the slats 10, as indicated at 30, allows a part of the sun rays 28 to pass into the interior space. The penetrating rays 30, however, are above head level, at least adjacent the window, where in the example a screen workplace 32 is situated, and hence do not entail any disturbance at the workplace but do afford a natural lighting of the room as a whole."

In the Applicant's invention, it is the high incident light coming in from the upper portion of the window that is stated to be responsible for lighting up the entire room and that is said to interfere with the reading of computer screens in that room. It is the upper, high incident rays that are blocked in the Applicant's configuration to subdue the total light transmission into the room. However, in the German reference, this concept is completely reversed. In the German reference, the upper high incident rays are welcome to enlighten the entire room for the purpose of saving electrical energy while the lower direct light in the vicinity of computer screens is unwelcome. In the Applicant's configuration, the lower direct light that is near the person's head is welcome and is important to achieve the purpose of the invention. According to the Applicant's invention, it is the lower portion of the window through which a person can still view the outside world, preventing any mental or physical strains.

The German reference does not recognize the problem stated in the Applicant's invention, and, thus, has not designed its window configuration accordingly. Even if mental strain caused by extended periods of alienation from the outside world was a problem recognized by the German reference, there would still be no motivation to completely reverse the window configuration in German '190. Even if one in the art was aware of the problem raised by the Applicant's disclosure and was looking at German's disclosure, one would, most likely, still have only provided some illumination through the lower part of the window in German's blind, just enough to recognize outside world shapes, and would have left the upper portion of the German blind as light-transmitting. Since the upper portion of the window is considered in German '190 to be important in illuminating the rest of the room, thus, leading to electrical energy savings, one of ordinary skill in the art would have left the upper configuration in German the same. One of ordinary skill in the art studying German would have assumed that reversing the configuration and blocking light through the upper portion would overly darken the rest of the room. Thus, this modification would still not have resulted in the Applicant's configuration.

Moreover, regarding the teachings provided by the German reference, the German reference also clearly teaches away from the Applicant's configuration. The German



reference, having designed a window that is particularly suited to solve the problem stated therein, clearly states that an important advantage is also provided by its window configuration. On page 2, lines 25-28 of the English translation of German '190, it is stated, "a further positive effect of divided vertical blind slats is the protection from people looking in. For instance in banks or general practitioners' offices, the blinds can be closed further than heretofore, to make it more difficult to look in from the outside, or to prevent same." Also, as discussed above, on page 5 of the English translation, German '190 states, "In the schematic presentation in Fig. 2, the assumption was that the lower part 14 of the slats 10, in closed position, to a large extent reflects the sunlight 28 incident from the outside, whilst the upper part 12 of the slats 10, as indicated at 30, allows a part of the sun rays 28 to pass into the interior space. The penetrating rays 30, however, are above head level, at least adjacent the window, where in the example a screen workplace 32 is situated, and hence do not entail any disturbance at the workplace but do afford a natural lighting of the room as a whole."

This teaching is clearly in sharp contrast to the Applicant's teaching wherein the lower part of the window is specifically designed to penetrate light and give workers a view of the outside world. This is specifically stated in the Applicant's disclosure wherein providing some outside visibility for workers in the workspace prevents physical and mental strains of being alienated from the outside world for an extended period of time. Please see page 2, lines 7-20 of the Applicant's specification. And, the design recited in claims 20, 29, 38, and 43 reflects this notion.

In view of the above, the Applicant respectfully submits that German '190 fails to disclose or suggest or provide sufficient motivation for one of ordinary skill in the art to completely reverse both the top and bottom portions of its blind configuration and to create a blind having features of claims 20, 29, 38, and 43. Furthermore, German '190 clearly teaches away from Applicant's blind configuration recited in claims 20, 29, 38, and 43. German '190 discloses a different structure that functions differently to address a different problem than that addressed by the features of claims 20, 29, 38, and 43. Reversing the blind configuration in German '190 to provide for a blind that has a transparent lower face and a non-transparent upper face would completely contradict the

purpose and function of the blind disclosed by German '190 of preventing direct lower incident light in a workspace that would affect a person's ability to view their computer screen and providing visual security by blocking visibility through the lower part of the blind. Therefore, the Applicant respectfully submits that claims 20, 29, 38, and 43 and their dependent claims are not obvious and patentably distinguish over German '190.

B. The modification/combination is based on impermissible hindsight.

A determination of obviousness cannot be based on impermissible hindsight. MPEP 2145(X)(A). The last Office Action includes obviousness rejections that are based on impermissible hindsight.

The Last Office Action and previous Office Actions incorrectly assert that the claimed design is a mere modification of German '190 and do not involve a novel and nonobvious improvement. The rejections have not set forth a teaching or suggestion by German '190 of the claimed design or of the described problem in the Applicant's application addressed by the claimed design. Therefore, Applicant submits that one skilled in the art reviewing German '190 would have had no suggestion for changing the features disclosed therein to obtain the limitations required by claims 20, 29, 38, and 43 of the present application. It is only through a hindsight analysis in which the limitations of claims 20, 29, 38, and 43 would have been established. The prior art must provide a motivation or reason for the worker in the art, without the benefit of the appellant's specification, to make the necessary changes to the referenced device. See ex parte Chicago Rawhide Mfg. Co., 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984) and MPEP 2145(X).

In the present case, not only is there no motivation provided in German '190 for the structure taught by the Applicant's claims without the benefit of the Applicant's own specification, the problem of preventing mental and physical strain of workers from a lack of the outside view of the world in workspaces would not have been focused on without looking at the Applicant's own disclosure. Thus, the Applicant's solution of providing a blind defining first and second faces, wherein the second face is positioned vertically below the first face and wherein the first face is configured to transmit

substantially no light while providing substantially no visibility and the second face is configured to at least partially transmit light while providing visibility to provide workers with a view of the outside world to prevent mental and physical strain would not have been strived for without the benefit of the Applicant's disclosure.

It is specifically stated in the Last Office Action by the Examiner, that "one reading and studying German but having different shading requirements would likewise tailor the shade to meet those requirements." However, without the benefit of Applicant's disclosure, one of the ordinary skill in the art would only be concerned with problems raised by the German disclosure and would not think to focus on different problems raised by the Applicant.

If the reasoning of the Examiner in making the above rejections is such that the motivation to modify the design in German is generated by problems or requirements identified in Applicant's own disclosure, any such reasoning leads to rejections based on impermissible hindsight, which cannot support an obviousness rejection.

Therefore, the Applicant respectfully submits that claims 20, 29, 38, and 43 and their dependent claims are not obvious and patentably distinguish over German '190 and withdrawal of this rejection is respectfully requested.

Regarding the second rejection, claim 22 has been rejected under 35 U.S.C. 103(a) as being unpatentable over German '190 as applied above, and further in view of Levert.

As stated above, German '190 fails to disclose and also suggest every limitation of claim 20. Levert fails to remedy the deficiencies of German '190 as it relates to claim 20. Therefore, claim 22 is allowable for at least the reason it is dependent upon an allowable base claim. Withdrawal of this rejection is respectfully requested.

Regarding the third rejection, claims 32 and 39-42 have been rejected under 35 U.S.C. 103(a) as being unpatentable over German '190 in view of Johnson et al.

As stated above, German '190 fails to disclose and also suggest every limitation of claim 29. Johnson et al. fails to remedy the deficiencies of German '190 as it relates to claim 29. Therefore, claim 32 is allowable for at least the reason it is dependent upon an

allowable base claim. As also stated above, German '190 fails to disclose and suggest every limitation of claim 38. Johnson et al. fails to remedy the deficiencies of German '190 as it relates to claim 38. Therefore, claims 39-42 are allowable for at least the reason they are dependent upon an allowable base claim. Withdrawal of this rejection is respectfully requested.

Regarding the fourth rejection, claims 20, 21, 23-27, 29-31, 33-38 and 43-50 have been rejected under 35 U.S.C. 103(a) as being unpatentable over German 19537190 in view of Kearny.

The Office Action states that Kearny provides additional motivation for modifying German '190 to provide the upper portion of the blind as light blocking and the lower portion as light permitting. The Applicant respectfully disagrees with this position taken in the Office Action.

One of ordinary skill in the art, looking at the disclosure of German '190, would not have consulted Kearny because Kearney describes an entirely different type of window decoration comprising horizontal slats and a pliable shade material. German '190 expressly teaches away from the use of horizontal blinds and describes its invention as a new vertical slat design that is configured to overcome some of the shortcomings of prior art vertical slat designs. Please see page 1, lines 5-24 and page 2, lines 1-11 of the English translation of German '190. In German '190, vertical blinds are discussed as being favored over horizontal blinds due the tendency of horizontal blinds to get dirtier and dustier. Moreover, it is discussed in German that, although horizontal blinds provide certain advantages over vertical blinds, such as being able to block upper light by varying the angle of the slats, the object of the German reference is to design a vertical blind with advantages provided normally by horizontal blinds.

It is not clear why one of ordinary skill in the art would refer to the disclosure of Kearny in modifying the design of German '190 and how one would perform such a modification. Kearny in Figure 1 shows a configuration wherein a first portion of the shade assembly consists of a sheet of pliable material and the other portion consists of a horizontal Venetian blind assembly. The vertical blinds of German '190, which are

stressed as being the preferred design, function differently than the configuration shown in Kearny that has a horizontal Venetian blind component. Also, the horizontal Venetian blinds of Kearny are clearly stated as being imperforate in construction (column 3, lines 42-46) and do not provide any suggestion for a combination with a perforated vertical slat design such as in German '190. Being able to tilt the Venetian blinds to allow in some light does not provide the guidance of putting perforations in a vertical slat blind design, as taught in German '190.

Thus, even if one of ordinary skill in the art were to access the disclosure of Kearny, one would have had no motivation or suggestion from either reference to modify the configuration of German '190 in view of Kearny. One, in fact, would have been taught away from consulting Kearny given the teachings of German '190. As discussed above, German '190 expressly states that it is an object of the invention to provide for vertical slat blinds that provide certain advantages of horizontal blinds and provide for vertical slat blinds that shield the portion of the room which is relatively close to the window while at the same time allowing the higher rays to travel to the rear part of the room to illuminate the entire room, leading to energy savings from not having to use as much electricity. And in German, this object is achieved by providing a vertical slatted blind having an upper face which transmits relatively more light than the lower face. German '190 also teaches away from a configuration wherein the lower portion of the window is allowed to transmit light. Protection from people looking in is stated as an important advantage of the design in German '190. The design in Kearny is not tailored to achieve these objectives.

In view of the above, the Applicant respectfully submits that Kearny fails to provide sufficient motivation for one of ordinary skill in the art to completely reverse the blind configuration of German '190 and to create a blind having features of claims 20, 29, 38, and 43. Any motivation to do so is clearly not provided by Kearny or German since the problem to be solved in the Applicant's invention is entirely different and would have only been provided by hindsight, looking at the Applicant's own specification and discussion of the problem.

Furthermore, as noted above, German '190 clearly teaches away from a combination with Kearny. Reversing both portions of the blind configuration in German '190 to provide for a blind that has a transparent lower face and a non-transparent upper face would defeat the purpose stated in German '190 of providing visual security by blocking visibility through the lower part of the blind. Therefore, the Applicant respectfully submits that claims 20, 29, 38, and 43 and their dependent claims are not obvious and are patentable over German '190 in view of Kearny and withdrawal of this rejection is respectfully requested.

Regarding the fifth rejection, claim 22 has been rejected under 35 U.S.C. 103(a) as being unpatentable over German patent '190 in view of Kearny as applied above, and further in view of Levert.

As stated above, the combination of German '190 and Kearny fails to disclose and suggest every limitation of claim 20. Levert fails to remedy the deficiencies of German '190 in combination with Kearny as it relates to claim 20. Therefore, claim 22 is allowable for at least the reason it is dependent upon an allowable base claim. Withdrawal of this rejection is respectfully requested.

Regarding the sixth rejection, claims 32 and 39-42 have been rejected under 35 U.S.C. 103(a) as being unpatentable over German '190 in view of Kearny as applied above and further in view of Johnson et al.

As stated above, the combination of German '190 and Kearny fails to disclose and suggest every limitation of claim 29. Johnson et al. fails to remedy the deficiencies of German '190 in combination with Kearny as it relates to claim 29. Therefore, claim 32 is allowable for at least the reason it is dependent upon an allowable base claim. As also stated above, the combination of German '190 and Kearny fails to disclose and suggest every limitation of claim 38. Johnson et al. fails to remedy the deficiencies of German '190 in combination with Kearny as it relates to claim 38. Therefore, claims 39-42 are allowable for at least the reason they are dependent upon an allowable base claim. Withdrawal of this rejection is respectfully requested.

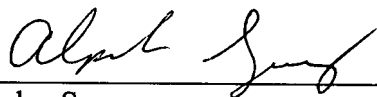
Reconsideration and allowance of claims 20-27 and 29-50 are therefore requested for at least the reasons articulated above.

In summary, it is earnestly requested that the Examiner's rejection of the above-noted claims be reversed. Favorable reconsideration in the form of a Notice of Allowance is respectfully requested. Please contact the undersigned attorney with any questions regarding this application. Please charge any additional fees or credit overpayment to Merchant & Gould Deposit Account No. 13-2725.

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

Date: October 29, 2007

  
Alpaslan Sapmaz  
Reg. No. 58,911  
ASapmaz/dc

**VIII. CLAIMS APPENDIX**

1-19. (Cancelled)

20. (Previously Presented) A vertical slatted blind comprising vertical slats, wherein the blind, when brought into a condition ready for use, comprises first and second faces defined by the vertical slats and extending in a horizontal direction over a portion of a width of the blind, the second face being oriented vertically below the first face, and each of said slats transmits substantially no light for a first portion of each slat corresponding with the first face and partially transmits light for a second portion of each slat corresponding with the second face, wherein the first face transmits substantially no light and the second face subdues incident light in such a manner that a person present at his workplace in an inner space provided with the blind can still look outside through the second face.

21. (Previously Presented) A blind according to claim 20, wherein said second portion is of perforated design.

22. (Previously Presented) A blind according to claim 20, wherein said second portion is of non-perforated design.

23. (Previously Presented) A blind according to claim 20, wherein the first and second faces extend over substantially the full width of the blind.

24. (Previously Presented) A blind according to claim 20, wherein the first and second face adjoin each other.

25. (Previously Presented) A blind according to claim 20, wherein the second face extends down to a lower side of the blind.



26. (Previously Presented) A blind according to claim 20, wherein the first face extends up to an upper side of the blind.

27. (Previously Presented) A blind according to claim 20, wherein the first and second face each have a rectangular shape.

28. (Cancelled)

29. (Previously Presented) A window blind, comprising:  
a plurality of vertically oriented slats each being movable between an open position and a closed position, wherein when the slats are in the closed position, the slats define a first face extending across a width of the blind and a second face extending across the width of the blind at a position vertically below the first face, and each slat includes a first portion aligned with the first face and configured to transmit substantially no light through the blind while providing substantially no visibility through the blind, and a second portion aligned with the second face and configured to partially transmit light through the blind while providing visibility through the blind.

30. (Previously Presented) The window blind of claim 29, wherein the second portion includes perforations.

31. (Previously Presented) The window blind of claim 29, wherein the second portion includes a material that is at least partially transparent.

32. (Previously Presented) The window blind of claim 31, wherein the slats include a transparent plastic material, and a coating is applied to the first portion and not applied to the second portion.

33. (Previously Presented) The window blind of claim 29, wherein the first and second faces extend over substantially the full width of the blind.

34. (Previously Presented) The window blind of claim 29, wherein the first and second face adjoin each other.
35. (Previously Presented) The window blind of claim 29, wherein the second face extends down to a lower side of the blind.
36. (Previously Presented) The window blind of claim 29, wherein the first face extends up to an upper side of the blind.
37. (Previously Presented) The window blind of claim 29, wherein the first and second face each have a rectangular shape.
38. (Previously Presented) A window blind, comprising a plurality of rotatable, vertically oriented slats, each slat including a continuous piece of at least partially transparent material and including first and second portions positioned along a length of the slat, the first portion being oriented vertically higher than the second portion and including a layer configured to inhibit substantially all viewing and light transmission through the slat, and the second portion providing viewing through the slat, wherein when the plurality of slats are rotated into a closed position the blind provides substantially no viewing and no light transmission through an upper face of the window blind defined by the first portion of the slats and provides viewing through a lower face of the window blind defined by the second portion of the slats.
39. (Previously Presented) The window blind of claim 38, wherein the continuous piece of material comprises a transparent plastic material.
40. (Previously Presented) The window blind of claim 39, wherein the layer is a coating.

41. (Previously Presented) The window blind of claim 39, wherein the layer extends along the length of the slat, and the second portion includes a plurality of perforations that provide viewing through the slat.

42. (Previously Presented) The window blind of claim 40, wherein the plastic material is tinted to at least partially prohibit light transmission.

43. (Previously Presented) A window decoration comprising:  
a vertical slatted blind, wherein the vertical slatted blind, when brought into a condition ready for use, comprises a first face extending in a horizontal direction over at least substantially the full width of the window decoration and a second face extending in a horizontal direction of the window decoration, wherein the first and the second faces are formed by vertical slats, wherein the first face comprises a first portion, the first portion transmitting substantially no light, wherein the second face comprises a second portion, the second portion partially transmitting light, the second face subduing incident light such that a person present at his workplace in an inner space provided with the window decoration can look outside through the second face, the first face being located above the second face.

44. (Previously Presented) A window decoration according to claim 43, wherein said second portion has a perforated design.

45. (Previously Presented) A window decoration according to claim 43, wherein said first portion has a non-perforated design.

46. (Previously Presented) A window decoration according to claim 43, wherein the second face extends over at least substantially the full width of the window decoration.

47. (Previously Presented) A window decoration according to claim 43, wherein the first and the second faces adjoin each other.

48. (Previously Presented) A window decoration according to claim 43, wherein the second face extends down to a lower side of the window decoration.

49. (Previously Presented) A window decoration according to claim 43, wherein the first face extends up to an upper side of the window decoration.

50. (Previously Presented) A window decoration according to claim 43, wherein the first and the second face each have a rectangular shape.

## **IX. EVIDENCE APPENDIX**

### **1. OFFICE ACTIONS AND AMENDMENTS/RESPONSES**

- a. Non-Final Office Action -- mailed January 16, 2002
- b. Response after Non-Final Office Action -- dated July 16, 2002
- c. Final Office Action -- mailed October 9, 2002
- d. Response after Final Office Action -- dated April 9, 2003
- e. Non-Final Office Action -- mailed April 23, 2003
- f. Response after Non-Final Office Action -- dated October 23, 2003
- g. Final Office Action -- mailed January 23, 2004
- h. Response after Final Office Action -- dated May 24, 2004
- i. Advisory Action -- mailed July 12, 2004
- j. Response after Final Office Action -- dated July 22, 2004
- k. Non-Final Office Action -- mailed August 19, 2004
- l. Response after Non-Final Office Action -- dated February 22, 2005
- m. Final Office Action -- mailed July 21, 2005
- n. Response after Final Office Action -- dated May 19, 2006
- o. Non-Final Office Action -- mailed June 14, 2006
- p. Response after Non-Final Office Action -- dated November 14, 2006
- q. Final Office Action -- mailed February 5, 2007

### **2. REFERENCES RELIED UPON BY THE EXAMINER**

- a. U.S. Patent No. 1,095,292
- b. U.S. Patent No. 2,441,819
- c. U.S. Patent No. 4,773,958
- d. U.S. Patent No. 4,779,524
- e. U.S. Patent No. 4,813,198
- f. U.S. Patent No. 4,893,667
- g. U.S. Patent No. 5,392,835
- h. U.S. Patent No. 5,467,266

Serial No. 09/787,377  
Group Art Unit: 3634

- i. U.S. Patent No. 5,538,065
- j. U.S. Patent No. 5,664,613
- k. U.S. Patent No. 5,791,390
- l. U.S. Patent No. 6,123,137
- m. U.S. Patent No. 2,646,114
- n. German Patent No. 19537190 (and English translation thereof)

**X. RELATED PROCEEDINGS APPENDIX**

None.